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**From:** Schaller, Charles [cschaller@bakerdonelson.com]  
**Sent:** 1/21/2020 2:20:33 PM  
**To:** Ramalho, Louis [Ramalho.Louis@epa.gov]  
**CC:** Toffel, Melissa [Toffel.Melissa@epa.gov]  
**Subject:** RE: RCRA I - 930 Port Street updated penalty calc  
**Attachments:** ATT00001.txt

Lou:

Thanks for the quick response. I will raise this point to Mr. Miller tomorrow during my call with him. After that call I will circle back to you.

**Charles R. Schaller**  
Of Counsel

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
100 Light Street  
19<sup>th</sup> Floor  
Baltimore, MD 21202

Phone 410.862.1120  
[cschaller@bakerdonelson.com](mailto:cschaller@bakerdonelson.com)

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
represents clients across the U.S. and abroad from offices  
in Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi,  
South Carolina, Tennessee, Texas, Virginia and Washington, D.C.

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**From:** Ramalho, Louis <Ramalho.Louis@epa.gov>  
**Sent:** Tuesday, January 21, 2020 8:55 AM  
**To:** Schaller, Charles <cschaller@bakerdonelson.com>  
**Cc:** Toffel, Melissa <Toffel.Melissa@epa.gov>  
**Subject:** FW: RCRA I - 930 Port Street updated penalty calc

Charles: Melissa reviewed the most recent information submitted by Mr. Miller. Although the new information resulted in reducing the overall civil penalty by \$3,500, the proposed settlement amount of \$60,000 is based on inability to pay analysis which is substantially below the overall proposed civil penalty for the alleged violations (now at approximately \$130,000). Therefore, EPA's proposed settlement offer has not changed in light of the new information. Lou

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**From:** Toffel, Melissa <Toffel.Melissa@epa.gov>  
**Sent:** Tuesday, January 21, 2020 8:44 AM  
**To:** Ramalho, Louis <Ramalho.Louis@epa.gov>  
**Subject:** RCRA I - 930 Port Street updated penalty calc

Lou, I looked over all the records that were sent yesterday, and re-calculated the penalty as needed. Based on this new information, the overall penalty went down \$3,500, solely for the first count of tank release detection. Tanks 2 and 5 went down for the Days of Noncompliance Multiplier. Although new information was provided for the other tanks as well, the multipliers did not change because the days of noncompliance overall kept them in the same boxes they were in before (for penalty calculation purposes).

I am attaching the new tank release detection chart reflecting the new information reviewed, as well as the updated penalty calculation.

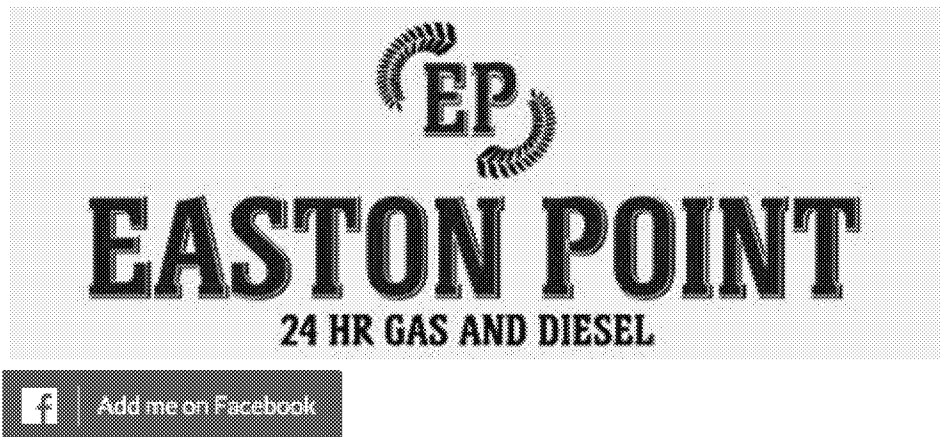
*Melissa Toffel, U.S. EPA Region III  
Enforcement & Compliance Assurance Division  
Air, RCRA & Toxics Branch  
1650 Arch Street (Mail Code 3ED22)  
Philadelphia, PA 19103  
P: 215-814-2060  
F: 215-814-3163*



**From:** Tim Miller <[tmiller@nationalpremiumbeer.com](mailto:tmiller@nationalpremiumbeer.com)>  
**Sent:** Monday, January 20, 2020 4:07 PM  
**To:** Ramalho, Louis <[Ramalho.Louis@epa.gov](mailto:Ramalho.Louis@epa.gov)>  
**Cc:** Toffel, Melissa <[Toffel.Melissa@epa.gov](mailto:Toffel.Melissa@epa.gov)>; Charles Schaller <[cschaller@bakerdonelson.com](mailto:cschaller@bakerdonelson.com)>  
**Subject:** Re: FW: 930 Port Street ATP

This should fill in a few blank spaces, another 7 hours of work!

Tim Miller  
Owner, 930 Port Street Inc.  
410-310-3553 | [tmiller@nationalpremiumbeer.com](mailto:tmiller@nationalpremiumbeer.com)  
28102 Baileys Neck Road, Easton MD 21601



On Tue, Nov 5, 2019 at 10:17 AM Ramalho, Louis <[Ramalho.Louis@epa.gov](mailto:Ramalho.Louis@epa.gov)> wrote:

Mr. Miller: Mr. Steinmetz has determined that your company, 930 Port Street, Inc., can pay at least \$60,000 of the total proposed penalty of \$138,982; a 57% reduction of the original amount. EPA is willing to provide you

with an installment payment plan over a 12 month period with a 1% interest rate on the outstanding principal balance with an average monthly payment of approximately \$5,050.00 per month. This offer is good for 20 days. Please let me know if you agree to accepted this offer. If EPA does not hear from you in writing on or before November 25<sup>th</sup>, EPA will assume that you have rejected our offer at which time EPA may proceed with the filing of a formal Administrative Complaint and Opportunity for a Hearing on this matter before an administrative law judge.

Regards,

Lou Ramalho

(215) 814-2681

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**From:** Steinmetz, Harry <[Steinmetz.Harry@epa.gov](mailto:Steinmetz.Harry@epa.gov)>  
**Sent:** Tuesday, November 05, 2019 8:48 AM  
**To:** Ramalho, Louis <[Ramalho.Louis@epa.gov](mailto:Ramalho.Louis@epa.gov)>  
**Cc:** Toffel, Melissa <[Toffel.Melissa@epa.gov](mailto:Toffel.Melissa@epa.gov)>  
**Subject:** 930 Port Street ATP

Folks,

To arrive at an ability to pay amount in settlement for a RCRA penalty proposed against 930 Port Street, Inc., I reviewed the following information:

- Form 1120-S, U.S. Income Tax return for an "S" Corporation for calendar years 2014 through 2018 inclusive;
- EPA's Financial Statement for Businesses;
- Publicly available real property assessments, valuations and ownerships;
- Follow-up telephone calls with Timothy Miller in the company of EPA's attorney, Louis Ramalho and the site inspector, Melissa Toffel.

Based on my review of the financial information provided by 930 Port Street, Inc., I have determined that the company is in a position to pay at least \$60,000.00 in settlement of the proposed civil penalty through an Ability to Pay Settlement. I feel this can be paid in 12 monthly equal installments with available cash and the remaining balance, if any, can be financed with the company's substantial real estate equity providing assurance and security to a lender.

*Harry R. Steinmetz, Investigator*

*Superfund & Emergency Management Division*

*U.S. EPA Region III (3SD41)*

*1650 Arch Street*

*Philadelphia, PA 19103*

Tel: 215/814-3161

Fax: 215/814-3025

Email: [Steinmetz.Harry@EPA.gov](mailto:Steinmetz.Harry@EPA.gov)

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